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IN LAKE CHARLES, LA.

UNITED STATES OF AMERICA

OCT 24 2013

WESTERN DISTRICT OF LOUISIANA

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LAKE CHARLES DIVISION

UNITED STATES OF AMERICA

CRIMINAL NO. 2:11CR00107-02

VERSUS

JUDGE MINALDI

KIMBERLY ANN THOMPSON

MAGISTRATE JUDGE KAY

JUDGMENT

Having considered the defendant's Motion to Vacate, Set Aside or Correct Sentence Pursuant to §2255 (Rec. Doc. 127),

IT IS ORDERED that this motion IS DISMISSED AS UNTIMELY. More than one year has passed since the defendant's conviction became final. Additionally, *Alleyne v. United States*, 133 S.Ct. 2151 (2013) has not been made retroactively applicable to cases on collateral review.

Considering the record in this case and the requirements of 28 U.S.C. § 2255, the court hereby finds that a certificate of appealability is DENIED because the applicant has failed to demonstrate a substantial showing of the denial of a constitutional right.

Lake Charles, Louisiana, this 23 day of August, 2013.

October 24


PATRÍCIA MINALDI

UNITED STATES DISTRICT JUDGE